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HONORABLE FREDERICK P. CORBIT
Chapter 9

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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re

KENNEWICK PUBLIC HOSPITAL
DISTRICT,

Debtor.

Bankr. Case No. 17-02025-9

MOTION OF THE OFFICIAL
COMMITTEE OF UNSECURED
CREDITORS FOR APPROVAL OF
THE SOLICITATION LETTER AND
FOR ITS INCLUSION IN THE
VOTING SOLICITATION PACKAGE

MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS FOR
APPROVAL OF THE SOLICITATION LETTER AND FOR ITS INCLUSION IN
THE VOTING SOLICITATION PACKAGE – Page 1

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1 The Official Committee of Unsecured Creditors (the “Committee”) of
2 Kennewick Public Hospital District (the “Debtor” or the “District”), by and through its
3 undersigned co-counsel, hereby submits this motion for approval of the solicitation
4 letter attached hereto as Exhibit A (the “Solicitation Letter”) and for its inclusion in the
5 Debtor’s voting solicitation package (the “Solicitation Letter Approval Motion”). In
6 support of the Solicitation Letter Approval Motion, the Committee respectfully states as
7 follows:
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9

10 **RELEVANT BACKGROUND**

11
12 1. On June 30, 2017 (the “Petition Date”), the Debtor filed a petition for
13 relief under chapter 9 of the Bankruptcy Code with the United States Bankruptcy Court
14 for the Eastern District of Washington (the “Bankruptcy Court”) under the above titled
15 caption. On August 9, 2017, the Bankruptcy Court entered the *Order for Relief*
16 *Pursuant to 11 U.S.C. § 921* [Docket No. 143] (the “Order for Relief”). The Order for
17 Relief provides, in relevant part, that the petition is deemed “an Order for Relief under
18 Chapter 9 of the Bankruptcy Code as of June 30, 2017.”
19

20 2. On September 1, 2017, the Office of United States Trustee for Region 18
21 appointed the Committee pursuant to section 1102 of the Bankruptcy Code.
22
23

1 3. On April 16, 2018, the Debtor filed the *Plan for the Adjustment of Debts*
2 *Dated April 16, 2018* [Docket No. 794] (the “Plan”) and *Disclosure Statement for the*
3 *Adjustment of Debtors Dated April 16, 2018* [Docket No. 793] (the “Disclosure
4 Statement”).

5
6 4. On April 20, 2018, the Debtor filed the *Debtor’s Motion for Order (1)*
7 *Approving Disclosure Statement and (2) Establishing Confirmation Schedule and*
8 *Related Procedures* [Docket No. 804] (the “Disclosure Statement Approval Motion”),
9 which, among other things, seeks approval of the adequacy of the Debtor’s Disclosure
10 Statement, the confirmation schedule and the Solicitation Package (as defined in the
11 Disclosure Statement Approval Motion).¹ A hearing on the Disclosure Statement
12 Approval Motion and the Motion to Shorten Notice is scheduled for May 15, 2018.

13
14 5. The Committee believes that the solicitation of the Plan and Disclosure
15 Statement is premature and contrary to the best interest of the Debtor’s creditors.
16 Accordingly, contemporaneously herewith, the Committee filed the *Preliminary*
17 *Objection of the Official Committee of Unsecured to the Debtor’s Motion for Order (1)*
18 *Approving Disclosure Statement and (2) Establishing Confirmation Schedule and*
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20
21 ¹ Contemporaneously therewith, the Debtor filed the *Debtor’s Motion for Entry of Order (A)*
22 *Shortening Time to Object and (B) Scheduling Expedited Hearing Regarding Debtor’s Motion for Order (1)*
23 *Approving Disclosure Statement and (2) Establishing Confirmation Schedule and Related Procedures* [Docket
 No. 805] (the “Motion to Shorten Notice”) and the *Declaration of Thomas Marshall in Support of Debtor’s*
 Motion for Expedited Hearing on Disclosure Statement Motion [Docket No. 806].

1 *Related Procedures* (the “Disclosure Statement Objection”). The Disclosure Statement
2 Objection seeks to adjourn the hearing on the adequacy of the Disclosure Statement
3 because the Plan and Disclosure Statement fail to contain meaningful information and
4 analysis on the various transactions and settlements contained in the Debtor’s Plan, or
5 any certainty with respect to the pool of assets (if any) available for distribution to
6 unsecured creditors.
7

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9 **JURISDICTION AND VENUE**

10 6. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C.
11 §§ 157 and 1334(b). Consideration of this Solicitation Letter Approval Motion is a
12 “core” proceeding pursuant to 28 U.S.C. § 157(b). Venue of this proceeding is proper
13 in this District pursuant to 28 U.S.C. §§ 1408 and 1409.
14

15 **RELIEF REQUESTED**

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17 7. The transactions embodied in the Plan would facilitate the continued
18 operation of the hospital for the residents of the District, a goal that the Committee
19 supports and views as an important element of any plan of adjustment in this case.
20 While this goal is laudable, the Committee believes the current version of the Plan is
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1 mechanically unworkable and missing critical and necessary transaction steps and
2 numerous required terms and provisions. In the Committee's view, solicitation of the
3 current version of the Plan is simply premature. As a result, if this Court approves the
4 Disclosure Statement over the Committee's objection, the Committee seeks entry of an
5 order approving the form of the solicitation letter attached hereto as Exhibit A (the
6 "Solicitation Letter") and directing its inclusion by the Debtor in the Solicitation
7 Package sent to Holders of Claims in Voting Class 9 (General Unsecured Claims).
8

9
10 **BASIS FOR RELIEF**

11 8. The Committee is charged by law with the duty of representing the
12 interests of all unsecured creditors in this case. As outlined in the Committee's
13 Disclosure Statement Objection, solicitation of the current version of the Plan and
14 Disclosure Statement would require unsecured creditors to vote on the Plan without a
15 clear understanding of the assets which will be available for distribution to the Creditor
16 Trust and expected distributions (if any) to holders of General Unsecured Claims.
17

18 9. Further, the Plan, as drafted, is premised on the sale of the Debtor's assets
19 to RCCH Healthcare Partners (the "RCCH Transaction"). While the Committee
20 supports a sale of the hospital in order to maintain healthcare services in the District,
21 the Plan and Disclosure Statement are incomplete and fail to contain meaningful
22 information and analysis with respect to the RCCH Transaction and the various other
23

1 transactions and settlements contained in the Debtor's Plan. Until those agreement
2 terms have been finalized, moving forward with the confirmation process would be a
3 waste of already limited assets and could derail the entire bankruptcy proceeding.
4 Therefore, solicitation of the Debtor's Plan is premature.
5

6 10. If the Disclosure Statement is approved in its current form – which it
7 should not be – the Committee believes it is critical that the Solicitation Letter, which
8 describes the Committee's recommendation with respect to the Plan, be included in the
9 Solicitation Package to Holders of Claims in Voting Class 9 (General Unsecured
10 Creditors). Although the Committee is hopeful that the parties will formulate a
11 mutually acceptable Plan, the Committee cannot recommend approval of the Plan in its
12 current form.² The Solicitation Letter briefly describes the background of the Debtor's
13 case, the underlying basis for the Debtor's Plan, and outlines in general terms the
14 reasons why the Committee does not support the Plan in its current form. The
15 Committee believes that written communication to creditors is the fairest, most efficient
16 and transparent way to present the Committee's views on the Plan.
17
18

19 11. The Bankruptcy Code provides that a creditors' committee may "advise
20 those represented by such committee of such committee's determinations as to any plan
21

22 ² The Committee is prepared to meet with the Debtor and its professionals and engage in good faith
23 negotiations in order to bridge the gap, build consensus and revise the proposed Plan.

1 formulated...” 11 U.S.C. § 1103(c) (made applicable in this case through section 901(a)
2 of the Bankruptcy Code). Bankruptcy Rule 3017(d) specifies the materials to be
3 distributed to holders of allowed claims and/or equity interests upon approval of a
4 disclosure statement, including the court-approved plan and disclosure statement and
5 notice of the time within which acceptances and rejections of the plan may be filed.
6 Fed. R. Bankr. P. 3017(d)(1)-(3). In addition to the foregoing, Bankruptcy Rule
7 3017(d)(4) provides that “any other information as the court may direct . . .” may be
8 included in the materials distributed to creditors. Fed. R. Bankr. P. 3017(d)(4).
9 Accordingly, based on the Court’s explicit authority, and in order to satisfy the
10 Committee’s fiduciary duties, the Committee requests that any order entered by the
11 Court approving the Debtor’s Disclosure Statement explicitly provide that the
12 Solicitation Package include the Solicitation Letter.
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14

15 **NO PRIOR REQUEST**

16 No prior request for the relief requested herein has been made to this or any other
17 court in connection with this chapter 9 case.
18

19 **CONCLUSION**

20 WHEREFORE, for all the reasons set forth herein, the Committee respectfully
21 requests that the Court enter an order in the form annexed hereto as Exhibit B
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1 approving the form of the Solicitation Letter and directing its inclusion by the Debtor in
2 the Solicitation Package and granting such other further relief as the Court deems just
3 and proper.
4

5 Co-Counsel for the Official Committee of
6 Unsecured Creditors of Kennewick Public
Hospital District

7 Dated: Seattle, Washington
8 May 8, 2018

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14 Dated: New York, New York
15 May 8, 2018

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